

SENATE BILL REPORT

SB 5737

As of February 11, 2009

Title: An act relating to compliance with sales, use, and business and occupation tax requirements.

Brief Description: Concerning compliance with sales, use, and business and occupation tax requirements.

Sponsors: Senators Regala, Brandland, Sheldon, Carrell, Hobbs, Stevens, Pridemore, Schoesler and Tom.

Brief History:

Committee Activity: Ways & Means: 2/10/09.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Dean Carlson (786-7305)

Background: City Licensure and Business and Occupation Tax. Cities may require businesses to be licensed to conduct business within a city. In addition cities may impose a business and occupation tax on businesses conducting business within the city. Currently, 40 cities levy a business and occupation tax.

Streamlined Sales Tax. In 2007 the state adopted full compliance with the national Streamline Sales and Use Tax Agreement (SSUTA); the effective date was July 1, 2008. The agreement is intended to make sales taxes more uniform throughout the country, thereby improving administration for tax collection agencies and compliance for taxpayers.

One of the requirements of SSUTA was switching to destination-based sourcing of taxable transactions for products that are delivered by vendors to the location of the purchaser. Thus, the transaction will be coded to the location of the buyer, rather than the point from which the goods were shipped by the seller. Thus, cities will be receiving reports of local sales tax receipts from vendors who are located outside of their jurisdiction.

The bill provided small retailers relief from the efforts needed to comply with the change in sourcing sales tax. Small retailers are defined as having less than \$500,000 in gross income, at least 5 percent of their income derived from deliveries away from their place of business, and at least 1 percent of their income from deliveries to destinations other than to the ones

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they report the most local sales tax to. Small retailers are relieved of penalty and interest from errors due to the sourcing changes. In addition, relief is provided for small retailers to allow them to either:

- use a certified service provider for up to two years, at no cost, for sales tax administration; or
- claim a credit against state sales tax liability in the amount of the costs of complying with the sourcing changes. The total credit that any small retailer can claim cannot exceed \$1,000 and may be carried forward until used.

Local Sales Tax Changes. Currently local sales and use tax changes can take effect no sooner than 75 days after the Department of Revenue receives notice of the change and they may be only implemented beginning on the first day of January, April, July, or October.

Summary of Bill: A city or town may not require a business to be licensed or be required to pay business and occupation tax in the city or town if the only activity conducted in the city or town is the delivery by common carrier or by the business' own vehicle of tangible personal property sold by the business.

Relief for efforts for business to comply with the changes in sales tax sourcing is expanded to businesses with gross incomes between \$500,000 and \$3 million. To qualify businesses must have at least 5 percent of their income derived from deliveries away from their place of business, and at least 1 percent of their income from deliveries to destinations other than to the ones they report the most local sales tax to. The relief provided is as follows:

- The use of a certified service provider at no cost for up to one year after July 1, 2010. The use of the certified service provider must begin prior to 2010; or
- A credit may be provided on the amount equal to cost incurred up until June 30, 2009, to comply with the changes in local sales tax sourcing. The total credit may not exceed \$1,000.

No business may be subject to interest or penalties because of errors in collecting the correct amount of local sales or use tax arising out of changes in local sales tax sourcing rules. This provision is in effect until December 21, 2012.

Local sales and use tax changes may only take place on the first day of January or July.

Appropriation: None.

Fiscal Note: Requested on January 29, 2009.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: We met with the Department of Revenue (department) and various stakeholders in regards to the SSUTA agreement. These are the problems with the bill that we can see. This SSUTA bill was to do no harm to the business community, and the piece about the business and occupation tax (B&O) being due when you deliver in your own truck. We would like to work with the communities on the rate change

issue. Some businesses have to shut down for a day when a rate change occurs. There are savings to be found in the bill with the rate change issues. As far as the tax credit goes, there is currently a fund allocated to the department. We feel the safe harbor provision is extremely important.

CON: Our concerns are with the business license and B&O tax. We are trying to find compromise with the business license issue. We thought we had that in HB 3126 from last year. Elimination of the license takes away our abilities to find businesses working in the underground economy. We take a fiscal hit on the B&O piece. In 2003 the Legislature passed legislation that B&O would be imposed at the place of delivery. This would further erode that when you take this away. The quarterly changes with the sales tax take 75-days notice to implement. With this a tax that is voter improved in November would not be able to be collected until July of the following year. We are trying to get there on the license issue and are opposed to the B&O issue, and would like to also talk about the quarterly issue.

Persons Testifying: PRO: Amber Carter, Association of Washington Business; Judy Coovert, Printcom; Gary Hughes, Edge Technologies; Troy Nichols, National Federation of Independent Business.

CON: Jim Justin, Renton, Puyallup, Redmond, Association of Washington Cities.